

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed May 25, 2005. At the time of the Final Office Action, Claims 1-10 were pending in this Application. Claims 1-10 stand rejected. Claims 1, 5, 6 and 10 have been amended to further define various features of Applicants' invention. Claims 2 and 7 have been cancelled without prejudice of disclaimer. Applicants respectfully request reconsideration and favorable action in this case.

Priority

Applicants appreciate Examiner's acknowledgement of Applicants claim for foreign priority based on an application filed in Germany February 8, 2001. In accordance with 37 C.F.R. 1.55, Applicants intend to submit a certified copy of the aforementioned priority application upon receipt of favorable action in the present application and prior to payment of any issue fees.

Rejections under 35 U.S.C. § 112

Claims 5 and 10 stand rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants amend Claims 5 and 10 to overcome these rejections and respectfully request reconsideration and full allowance of Claims 5 and 10 as amended.

Rejections under 35 U.S.C. § 102

Claims 1-10 stand rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by PCT Application Publication WO 99/30028 and also filed as U.S. Patent 6,257,506 by Karl Hofmann et al. ("Hofmann").

Claims 1-10 stand rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 4,470,548 issued to Shoji Ushimura ("Ushimura").

Claims 1-10 stand rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 4,982,901 issued to Volker Holzgrefe ("901-Holzgrefe").

Claims 1-10 stand rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,012,981 issued to Volker Holzgrefe et al. (“981-Holzgrefe”).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1997). Furthermore, “the identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that the Hofmann, Ushimura, 901-Holzgrefe, and 981-Holzgrefe references cited as anticipatory by the Examiner cannot anticipate the rejected Claims, because each reference fails to show all the elements of the present Claims.

Independent Claim 1 recites, among other features, “a gap provided axially in height between the sealed seat and the nozzle needle shaft, wherein an outer surface of the nozzle needle runs essentially parallel to an inner surface of the nozzle body in the region of the gap, wherein the gap is implemented as an elongated recess between the nozzle needle and the nozzle body.” Emphasis added. Independent Claim 6 recites, among other features, “a gap axially in height between the sealed seat and the nozzle needle shaft, wherein the gap is implemented as an elongated recess between the nozzle needle and the nozzle body.” Emphasis added.

Applicants submit that, among other features, each of the cited references fails to disclose, teach or suggest an elongated gap as recited in Independent Claims 1 and 6. As discussed by Examiner, each of Hoffman, Ushimura, 901-Holzgrefe, and 981-Holzgrefe discloses a gap. However, Applicants note that the gap shown in each of Hoffman, Ushimura, 901-Holzgrefe and 981-Holzgrefe is short and wide. Each of Hoffman, Ushimura, 901-Holzgrefe and 981-Holzgrefe, individually or in combination fails to make any disclosure, teaching or suggestion of providing an elongated gap between the nozzle needle and the nozzle body as recited in Independent Claims 1 and 6.

Applicants submit that the rejections under §102 are unsupported and request reconsideration, withdrawal of the §102 rejections and full allowance of Claims 1 and 6, and Claims 3-5 and 8-10 which depend therefrom.

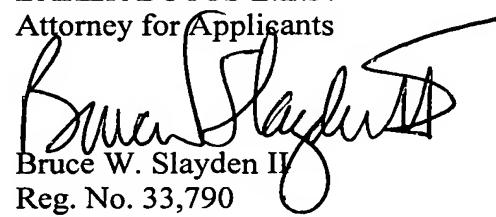
CONCLUSION

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the claims as amended.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2606.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicants



Bruce W. Slayden II
Reg. No. 33,790

SEND CORRESPONDENCE TO:
BAKER BOTTS L.L.P.
CUSTOMER ACCOUNT NO. 31625
512.322.2606
512.322.8383 (fax)

Date: 8/12/2005